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STATE OF INDIANA  
ENVIRONMENTAL MANAGEMENT BOARD

GARY DEVELOPMENT, INC.,

Petitioner,

v.

CAUSE NO. N-146

INDIANA ENVIRONMENTAL  
MANAGEMENT BOARD,

Respondent.

VOLUME II

TRANSCRIPT OF PROCEEDINGS

held on September 10 and 11, 1984,  
in Room 37-C of the Indiana State  
Board of Health Building, 1330 West  
Michigan Street, Indianapolis,  
Marion County, Indiana, before  
Hearing Officer James Garrettson.

REPORTER: Frances Baker, RPR/CP



ACCURATE REPORTING OF INDIANA

WM. F. DANIELS, PROP., RPR/CP CM

7033 CENTRAL AVENUE

INDIANAPOLIS, INDIANA 46220

253-6753

of time for you to complete that review, or to conduct a public flogging, and I prefer the time if possible.

[Discussion off the record]

Q [By Mr. Krebs] Mr. Oliver, skipping for the moment, at least until we have had time to review the last two documents that you have referred to, without referring to those documents, do you recall that is it correct that regarding the J & L wastewater sludge that the sludge evidently was at one time classified as a RCRA waste?

A. Yes.

Q And was in fact that waste officially delisted from the RCRA list at some time in the past?

A. Yes.

Q By the U.S.E.P.A. as well as by the State of Indiana?

A. Yes.

[Petitioner's Exhibits  
26 through 29 are marked  
for identification.]

Q I would like to hand you some documents which I did copy from the file that you provided to me a couple of weeks ago. It might be good if you had your original copy if you want to compare them to make sure they're correct documents.

1  
2 Mr. Oliver, let me hand you what have been  
3 marked for identification purposes as Petitioner's  
4 Exhibit 26, and ask you if this is a photostatic  
5 copy in the official file of the Indiana State  
6 Board of Health from Jones & Laughlin Steel, a letter  
7 to the Indiana State Board of Health dated February  
8 25, 1983, regarding its request for a variance I  
9 believe from the State of Indiana.

10 A. [Examining subject exhibit] Yes, it appears to be  
11 a copy of the original.

12 Q. And do you consider that to your knowledge to be  
13 the request for a variance of the waste that was  
14 going to the Gary Development Landfill?

15 A. I don't know that it relates to the landfill  
16 necessarily. Materials are delisted with the industry  
17 irrespective of where they are destined for  
18 disposal.

19 Q. Did it involve their wastewater treatment sludge,  
20 let's put it that way, the J & L wastewater treat-  
21 ment sludge regardless of where it was going?

22 A. Material for which delisting is requested is sludge  
23 resulting from the treatment of mixed wastewaters  
24 at the Indiana Harbor Works in East Chicago, Indiana.

25 Q. In that letter there were some attachments or

enclosures that were specified that were sent along with that, is that correct?

A. That's what the letter indicates.

Q. And let me hand you what we have marked separately as Petitioner's Exhibit 27, and ask you if this also is a document contained in the State's official file and referenced in the cover letter that you have just identified, dated February 25th, 1982, from J & L Steel.

A. [Examining subject exhibit] What we have in the file appears to be a copy of correspondence from J & L Steel dated March 3, 1981, and this letter is referenced in the February 25, 1982 correspondence.

Q. That would be this Petitioner's Exhibit 27 then and copy of the letter that you have in the State's file of March 3, 1981, addressed to Mr. John P. Lehman, L-e-h-m-a-n, of the U.S.E.P.A. with the attachments to the letter.

A. The document I have consists of three pages. Yours has more than that. It has September 25, 1981, correspondence.

Q. Yes. Is that also referenced in the cover letter of February 25, '82?

A. Yes; yes, it is.

1  
2 Q And does this then look to be the same, this copy  
3 as the one you have in the State's file?

4 A September 25, '81? Yes, it does. The exhibit  
5 contains those two letters essentially.

6 Q This is Petitioner's Exhibit 27 then?

7 A Yes.

8 Q I believe you stated that the Environmental Manage-  
9 ment Board did rule upon the variance requested  
10 of J & L Steel for their wastewater treatment  
11 sludge as was presented in this February 25, 1982,  
12 correspondence.

13 A As presented with it?

14 Q As was discussed and requested in the February 25,  
15 '82, correspondence.

16 A Yes, it was.

17 Q Let me hand you what we have marked for identification  
18 as Petitioner's Exhibit 28, and ask you if this is  
19 a copy of a document contained in the official file  
20 which you are reviewing of the Indiana State Board  
21 of Health, which in fact is a variance for delisted  
22 hazardous waste by Mr. Ralph D. Pickard on behalf  
23 of the Environmental Management Board?

24 A Yes, it is.

25 Q And lastly in that regard, let me hand you another

1  
2 letter which we have identified as Petitioner's  
3 Exhibit 29, addressed to Youngstown Sheet & Tube,  
4 entitled the delisting of hazardous waste in  
5 Indiana, dated January 24, 1984, and ask you if  
6 this also is a photostatic copy of an original  
7 contained in the State's official file?

8 MR. SCHERSCHEL: What date

9 is that?

10 Q [By Mr. Krebs] January 24, '84.

11 A Yes, it is.

12 Q Would this last letter, this Petitioner's Exhibit  
13 24, the January '84 letter from Mr. Pickard, would  
14 this reference also and be related to the variance  
15 granted previously, and you may read the letter  
16 if you have not done so.

17 A Yes, it does relate to their delisting of their  
18 hazardous waste.

19 Q And how does it relate to that delisting?

20 A Not being familiar with the program, I'd have to  
21 essentially read the correspondence in response  
22 to that.

23 Q Specifically on paragraph 1 of the letter of  
24 January 24, 1984, does it state in the third  
25 sentence that, "Facilities which were granted

1  
2 delisting variances but did not appear in this  
3 appendix A will continue their variance until  
4 their reviewal for delisting is completed"?

5 A. Yes, it does.

6 Q And is the J & L or Youngstown Sheet & Tube waste  
7 included in Exhibit A?

8 A. No, it's not.

9 MR. KREBS: At this time we  
10 would offer into evidence the exhibits  
11 as identified by the witness,  
12 realizing they are photostatic copies,  
13 which are Petitioner's Exhibits 26,  
14 27, 28 and 29, four exhibits.

15 MR. SCHERSCHEL: May I see  
16 them, please?

17 No objection.

18 HEARING OFFICER: Let the  
19 record show that Petitioner's Exhibits  
20 26, 27, 28 and 29 are admitted into  
21 evidence.

22 Q [By Mr. Krebs] Mr. Oliver, wouldn't these letters  
23 when reading and especially considering the last  
24 letter of January 24th, 1984, from the technical  
25 secretary of the Board indicate that the State